

Heidi G. Goebel, 10343  
CHRISTENSEN & JENSEN, P.C.  
15 West South Temple, Suite 800  
Salt Lake City, Utah 84101  
Telephone: (801) 323-5000  
[Heidi.Goebel@chrisjen.com](mailto:Heidi.Goebel@chrisjen.com)  
*Attorneys for Defendants*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

LINGUISTICA INTERNATIONAL, INC., a  
Utah corporation,

Plaintiff,

vs.

FEDEX CORPORATE SERVICES, INC., a  
Delaware corporation; FEDEX  
CORPORATION, a Delaware corporation;  
FEDEX FREIGHT, INC., an Arkansas  
corporation, and JOHN DOES I-X,

Defendants.

**NOTICE OF REMOVAL OF CIVIL  
ACTION TO U.S. DISTRICT  
COURT**

Case No.: 2:14-cv-00534

Magistrate Judge Dustin B. Pead

PLEASE TAKE NOTICE that Defendant FedEx Corporate Services, Inc. ("FedEx Services"), hereby removes this action to this Court under 28 U.S.C. §1441 stating as follows:

1. Defendants in this lawsuit are in agreement that removal is proper, this Court has jurisdiction and consent to and join in removal of this action.

2. On June 30, 2014, Plaintiff filed this action in the Third Judicial District Court, Salt Lake County, Utah. FedEx Services was served on June 30, 2014. Thirty days since such service have not yet expired.

3. This Court has original jurisdiction over Plaintiff's claims by virtue of diversity of citizenship and satisfaction of the amount in controversy requirement of 28 U.S.C. §1332(a)(1). This action is thus properly removable to federal court pursuant to 28 U.S.C. §1332 and § 1441. According to its Complaint, Plaintiff is a "lawful Utah Corporation". FedEx Corporation is organized in Delaware with a principal place of business in Memphis, Tennessee. FedEx Freight, Inc. is organized in Arkansas with a principal place of business in Memphis, Tennessee. FedEx Corporate Services, Inc. is organized in Delaware with a principal place of business Memphis, Tennessee.

4. The Complaint alleges damages in excess of \$75,000. Plaintiff claims damages of \$32,500,000 in profits it would have earned but for Defendant's late delivery of Plaintiff's package. That number does not include the punitive damages, costs and attorney's fees claimed by Plaintiff.

5. Attached hereto as Exhibit A is a true and correct copy of all pleadings and process filed in this action in the Third Judicial District Court, Salt Lake County, Utah.

6. Written notice of this filing of this Notice of Removal will be served on Plaintiff and a Notice of Filing this Notice of Removal is being filed with the Third Judicial District Court, Salt Lake County, Utah. A copy of the Notice of Filing Notice of Removal is attached as Exhibit B.

WHEREFORE, Defendant removes this action from the Third Judicial District Court, State of Utah, Salt Lake County, West Jordan Department to the United States District Court for the District of Utah.

DATED this 22<sup>nd</sup> day of July, 2014.

CHRISTENSEN & JENSEN, P.C.

/s/ Heidi G. Goebel  
Heidi G. Goebel  
*Attorney for FedEx Corporate Services, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of this Notice of Removal has been served via U.S. Mail, postage prepaid, this 22<sup>nd</sup> day of July, 2014 on:

Jeremy D. Eveland  
Jared B. Pearson  
Eveland & Associates, PLLC  
8833 South Redwood Road, Suite C  
West Jordan, UT 84088

/s/ Heidi G. Goebel

# EXHIBIT A

Jeremy D. Eveland, MBA, JD (10412)  
 Jared B. Pearson, JD (12200)  
**EVELAND & ASSOCIATES, PLLC.**  
 8833 South Redwood Road, Suite C  
 West Jordan, Utah 84088  
 Tel: (801) 676-5006  
 Fax: (801) 676-5508

*Attorneys for Plaintiff*

STATE OF UTAH  
 COUNTY OF Salt Lake  
 I hereby certify that the document to  
 which this certificate is attached is a  
 full, true and correct copy of the  
 original filed in the Utah State Courts.  
 WITNESS my hand and seal  
 this 18 day of July  
 20 14  
 DISTRICT/JUVENILE COURT [Signature] CLERK

**IN THE THIRD JUDICIAL DISTRICT COURT, STATE OF UTAH  
 SALT LAKE COUNTY, WEST JORDAN DEPARTMENT**

LINGUISTICA INTERNATIONAL, INC., a  
 Utah corporation,

Plaintiff,

vs.

FEDEX CORPORATE SERVICES, INC., a  
 Delaware corporation; FEDEX  
 CORPORATION; a Delaware corporation;  
 FEDEX FREIGHT, INC., a Arkansas  
 Corporation, and JOHN DOES I - X,

Defendants.

**COMPLAINT  
 TIER III**

Case No.: \_\_\_\_\_

Judge: \_\_\_\_\_

Plaintiff, LINGUISTICA INTERNATIONAL, INC. (hereinafter referred to as  
 "Plaintiff"), by and through counsel, Jeremy D. Eveland and Jared B. Pearson of the law firm of  
 Eveland & Associates, PLLC, hereby complain of the Defendants identified herein, as follows:

**PARTIES, JURISDICTION AND VENUE**

1. LINGUISTICA INTERNATIONAL, INC. is a lawful Utah Corporation conducting business within the State of Utah.
2. FEDEX CORPORATION is a Delaware Corporation, doing business in the State of Utah.
3. FEDEX CORPORATE SERVICES, INC. is a Delaware Corporation, doing business in the State of Utah.
4. FEDEX FREIGHT, INC. is an Arkansas Corporation, doing business in the State of Utah.
5. FEDEX CORPORATION has not registered to conduct business in the State of Utah.
6. For purposes of this Complaint all of the FedEx entities referenced in paragraphs 2, 3, 4, and 5 of this Complaint are referred to herein jointly as "FedEx."
7. Does I-X are individuals or companies otherwise involved in this matter, currently unknown to Plaintiff.
8. Jurisdiction in the above-referenced Court is proper pursuant to Utah Code Ann. § 78A-5-102 et seq.
9. Venue is proper in this Court pursuant to Utah Code Ann. § 78B-3-307.

**GENERAL ALLEGATIONS**

10. At all times relevant, all of the companies listed herein were and are active or corporations doing business in the State of Utah.

11. In 2009, Plaintiff began the process of preparing for a bid for translation services for the federal government.

12. The Centers for Medicare and Medicaid Services had a contract that became available once every five to seven years that Plaintiff desired to bid on.

13. This bid was for a minority owned business.

14. Plaintiff is a minority owned business.

15. Plaintiff is also owned by a woman.

16. The federal government has certain contracts for bid by only those who qualify as women owned minority businesses.

17. This bid was for a 5 year contract that would provide gross revenue to Plaintiff of \$70,000,000.

18. Plaintiff would have received \$32,500,000 in profit on the bid.

19. On April 18, 2014, Plaintiff went to the FedEx store located at 10501 South Redwood Road, South Jordan, Utah 84095 to ship the bid to the Centers for Medicare and Medicaid Services.

20. Attached hereto and incorporated by this reference as Exhibit "A" is a photograph of the box with the address label attached showing the address and highlighting the due date of April 21, 2014 at 11:00am.

21. Plaintiff's agent, Sabrina Morales, personally asked the FedEx employee if the package would arrive before the deadline of April 21, 2014 at 11:00am.

22. The FedEx employee said that the package would arrive before the deadline.



23. Plaintiff's agent, Sabrina Morales, told the FedEx employee that the package contained a bid that Plaintiff had been working on for four years and that it absolutely had to arrive before the deadline.

24. Plaintiff began preparing its internal infrastructure to be able to handle a contract this size over the four year period that it prepared for this contract.

25. The FedEx employee told Sabrina Morales that it would arrive before the deadline.

26. The FedEx employee assigned the package shipment #805573440063.

27. If the FedEx employee would have told Plaintiff's agent, Sabrina Morales, that the package could not be delivered before the deadline, then Plaintiff would have shipped the package through UPS or the United States Postal Service.

28. Plaintiff relied on the statements of the FedEx employee and shipped the package to the Centers for Medicare and Medicaid Services on April 18, 2014.

29. FedEx did not deliver the package to the Centers for Medicare and Medicaid Services prior to the deadline.

30. FedEx delivered the package one day late.

31. Plaintiff went to the FedEx store and inquired as to the package.

32. The FedEx store manager, Ryan Park, wrote a letter stating that it was their error which resulted in the package being delivered one day late, past the deadline.

33. Attached hereto as Exhibit "B" is a true and correct copy of the letter from the FedEx store manager, Ryan Park, who acknowledged that FedEx was at fault for the late delivery of the package.

34. Plaintiff's bid for the translation services with the Centers for Medicare and Medicaid Services was received past the deadline and therefore not accepted.

35. Plaintiff inquired as to who won the bid for the translation services with the Centers for Medicare and Medicaid Services.

36. The Centers for Medicare and Medicaid Services did not award the contract to any company for lack of an actual vendor that met the "economically disadvantaged women owned business" set aside requirements.

37. Plaintiff would have won the bid, if it would have timely arrived, because Plaintiff was an actual vendor that met the "economically disadvantaged women owned business" set aside requirements.

**FIRST CLAIM FOR RELIEF**  
**Negligent Misrepresentation**

38. The Plaintiff realleges and incorporates each preceding paragraph as if set forth herein.

39. The conduct of each defendant constitutes, at least, negligent misrepresentation.

40. Each defendant had a pecuniary interest in the transactions at issue in this case.

41. FedEx made money from Plaintiff to ship the package to the destination so that the Centers for Medicare and Medicaid Services would receive the package with Plaintiff's bid prior to the deadline.

42. FedEx told Plaintiff that it would deliver the package prior to the deadline.

43. FedEx saw that the deadline was April 21, 2014 at 11:00am as it was written on the package in more than one spot in bold black letters, 36 point font, and with yellow highlighting so that no error would be made. *See* Exhibit "A."

44. FedEx acknowledged that it is at fault for not getting the package to the destination prior to the deadline and further admits that it could have done so if it had not had an internal error on their part. *See* Exhibit "B."

45. Each defendant was in a superior position to know the material facts and each carelessly and recklessly made false statements concerning those facts, expecting the Plaintiff to rely and act thereon.

46. FedEx specifically told and represented to Plaintiff that the package would arrive prior to the deadline.

47. If FedEx would have represented to Plaintiff that it was unable to deliver the package prior to the deadline, Plaintiff would have used the services of another package delivery company.

48. The Plaintiff did reasonably rely on FedEx's misrepresentations and suffered substantial losses as a proximate result.

49. Plaintiff has lost total revenue of \$70,000,000 as a result of FedEx failing to timely deliver the package.

50. Plaintiff has lost net profit of \$32,500,000 as a result of FedEx failing to timely deliver the package.

51. Plaintiff relied on FedEx to its detriment.

52. Each defendant is liable to Plaintiff for all actual, consequential, and other damages they have suffered as a proximate result of each defendant's negligent misrepresentations.

**SECOND CLAIM FOR RELIEF**

**Breach of Contract**

53. The Plaintiff realleges and incorporate each preceding paragraph as if set forth herein.

54. Plaintiff entered into a valid and binding oral agreement with FedEx.

55. The oral agreement was that FedEx would deliver the package to the Centers for Medicare and Medicaid Services prior to the deadline and Plaintiff would pay for the delivery.

56. Plaintiff paid FedEx for the on time delivery.

57. FedEx failed to timely deliver the package.

58. FedEx breached the oral agreement.

59. But for FedEx's breach, Plaintiff would have earned \$70,000,000 over the next five years and had a net profit of \$32,500,000.

60. Plaintiff kept its part of the agreement.

61. FedEx breached their part of the agreement.

62. FedEx's breach has directly and proximately caused Plaintiff to suffer damages as outlined herein, for which each Defendant is jointly and severally liable

**THIRD CAUSE OF ACTION**  
**Negligence**

63. Plaintiff incorporates each and every foregoing paragraph as though fully set forth herein.

64. Plaintiff alleges that, in participating in the acts alleged herein, Defendants, owed a duty that they breached because they failed to exercise reasonable care.

65. As a direct and proximate cause of Defendants' negligence and breach, Plaintiff has suffered damages according to proof.

**FOURTH CAUSE OF ACTION**  
**Unjust Enrichment**

66. Plaintiff repeats, realleges and hereby incorporate each preceding paragraph as though fully set forth herein.

67. Defendants wrongfully obtained and enjoyed the benefit of taking the shipping fee from Plaintiff to timely deliver the package.

68. Defendants failed to do so.

69. Defendants knowingly took funds from the Plaintiff and Defendants converted those funds to their own use and benefit and failed to deliver any benefit to Plaintiff.

70. As a direct and proximate result of Defendants' actions, Plaintiff has been damaged and Defendants unjustly enriched by their actions.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, jointly and severally, as follows:

1. For judgment against Defendants for breach of contract of which resulted in the loss of revenues and profits;
2. For judgment against Defendants for consequential damages that have resulted from the loss of business contract at Defendants' hands and for attorney fees and costs of litigation;
3. For judgment against Defendants for lost profits due to Plaintiff;
4. For judgment against Defendants for all actual and consequential damages that are proved at trial for each cause of action stated herein;
5. For judgment against Defendants for the value provided by Plaintiff from which Defendants benefitted, thereby unjustly enriching Defendants;
6. For judgment against Defendants for all causes of actions listed in the Complaint, along with punitive damages;
7. For all costs and reasonable attorney fees expended in litigating this matter; and
8. For such other and further relief as to the Court seems just and proper under the circumstances.

DATED this 25th day of June, 2014.

EVELAND & ASSOCIATES, PLLC.

/s/ Jeremy Eveland

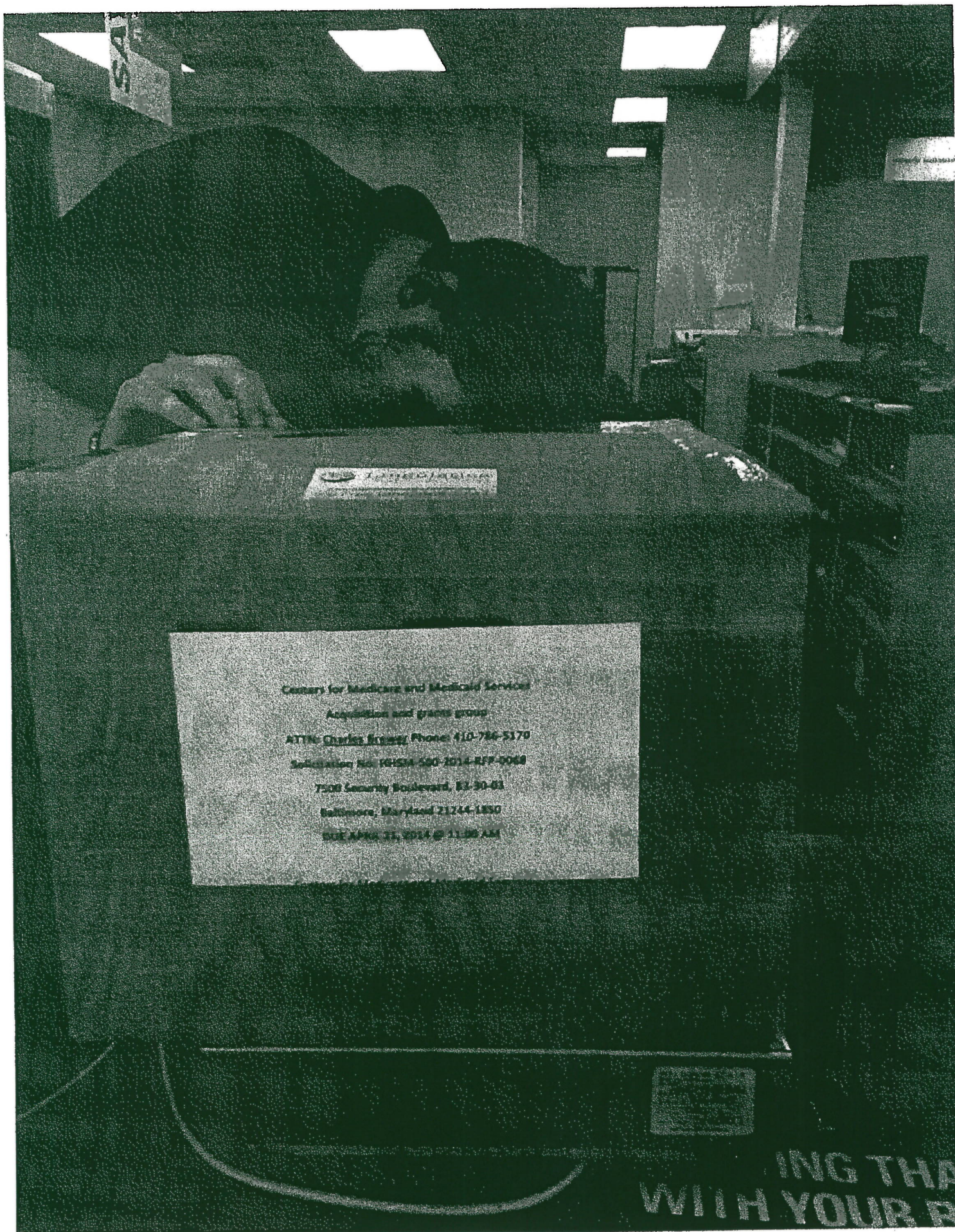
Jeremy D. Eveland, MBA, JD

Jared B. Pearson, JD

Attorneys for Plaintiff

## **Exhibit “A”**











## **Exhibit “B”**

South Jordan at Redwood  
10501 South Redwood Rd  
South Jordan, UT 84095

Telephone: 801-253-5306  
Fax: 801-253-5308



To whom it may concern,

This letter is in regards to FedEx shipment #805573440063. This shipment originated from location BTFKF in South Jordan, UT and was shipped by Linguistica International on April 18, 2014.

This package was presented to our agent on April 18, 2014 at 19:23 and was requested by Linguistica International to arrive at the destination in Maryland no later than 09:00 on April 21, 2014. This timeframe would have required a First Overnight level of service, and the package was presented to FedEx in sufficient time to allow for this level of service to be completed. However, at the time of data entry an incorrect service level was selected by the FedEx agent, which resulted in the shipment being processed as a 2-day shipment. This incorrectly selected service level delayed the shipment by a day, which resulted in the package being delivered on April 22, 2014 at 09:14.

This delayed shipment was in no way the fault of Linguistica International, but a data entry caused by the FedEx agent at the point of origin.

Should you require any further information regarding this shipment, please feel free to contact me directly. I can be reached at any of the contact points listed below.

Sincerely,



Ryan Park  
Center Manager  
FedEx Office #2123  
10501 South Redwood Road  
South Jordan, UT 84095  
Phone: 801-253-5306  
Email: ryan.park@fedex.com

**AFFIDAVIT OF SERVICE**

**IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY  
STATE OF UTAH – WEST JORDAN DEPARTMENT**

PETITIONER: LINGUISTICA INTERNATIONAL

Case # 140408790

RESPONDENT: FEDEX FREIGHT, INC. et al

For:  
Eveland & Associates, PLLC  
8833 South Redwood Road, Suite C  
West Jordan, Utah 84088

STATE OF UTAH )  
COUNTY OF SALT LAKE ) SS.

STATE OF UTAH  
COUNTY OF Salt Lake  
I hereby certify that the document to  
which this certificate is attached is a  
full, true and correct copy of the  
original filed in the Utah State Courts.  
WITNESS my hand and seal  
this 18 day of July  
20 14  
DISTRICT/JUVENILE COURT  
[Signature] CLERK

I, Amy McLean, an individual over the age of eighteen and not a party to this action, and,  
having been first duly sworn and under oath depose and say that: I, Amy McLean, do hereby  
swear under the penalty of perjury, that I received a **Summons and Complaint** in this case to be  
served on **FEDEX FREIGHT, INC.**

and that on the 30th day of June, 2014 at 2:15 pm, I **PERSONALLY** served by delivering a true  
copy of the **Summons and Complaint** with the date and hour of service endorsed thereon by  
me, to: **KELLY NIXON**, at **CT CORPORATION, 1108 E SOUTH UNION AVE., Midvale, UT  
84047**, who is the named registered agent for said company and informed said person of the  
contents therein, in compliance with state statutes.

DATED this \_\_\_\_ day of July, 2014

[Signature]  
Amy McLean

SUBSCRIBED AND SWORN TO BEFORE ME THIS 1<sup>st</sup> day of July, 2014.



[Signature]  
Notary Public

Jeremy D. Eveland, MBA, JD (10412)  
Jared B. Pearson, JD (12200)  
EVELAND & ASSOCIATES, PLLC.  
8833 South Redwood Road, Suite C  
West Jordan, Utah 84088  
Tel: (801) 676-5006  
Fax: (801) 676-5508

Kelly Nixon  
2:15 pm  
6/30/14  
Amy M. Lee

*Attorneys for Plaintiff*

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**IN THE THIRD JUDICIAL DISTRICT COURT, STATE OF UTAH  
SALT LAKE COUNTY, WEST JORDAN DEPARTMENT**

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LINGUISTICA INTERNATIONAL, INC., a  
Utah corporation,

Plaintiff,

vs.

FEDEX CORPORATE SERVICES, INC., a  
Delaware corporation; FEDEX  
CORPORATION; a Delaware corporation;  
FEDEX FREIGHT, INC., a Arkansas  
Corporation, and JOHN DOES I - X,

Defendants.

**SUMMONS**

Case No.: 140408790

Judge Barry Lawrence

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**THE STATE OF UTAH TO FEDEX FREIGHT, INC.:**

You are summoned and must file a response to the Complaint in this lawsuit, in writing, with the clerk of the court at the following address: 8080 South Redwood Road, Suite 1701, West Jordan, Utah 84088; and deliver or mail a copy of your response to the Attorney for Respondent, Jeremy D. Eveland, Eveland & Associates, PLLC, 8833 South Redwood Road, Suite C, West Jordan, Utah 84088, within 20 days if you are served in the State of Utah, or within 30 days if you are served outside the State of Utah, after service of this Summons upon you.

**AFFIDAVIT OF SERVICE**

**IN THE THIRD DISTRICT COURT, SALT LAKE COUNTY  
STATE OF UTAH – WEST JORDAN DEPARTMENT**

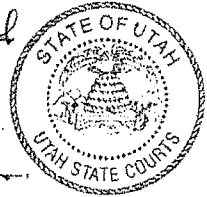
PETITIONER: **LINGUISTICA INTERNATIONAL**

**Case # 140408790**

RESPONDENT: **FEDEX CORPORATE SERVICES, INC. et al**

For:  
Eveland & Associates, PLLC  
8833 South Redwood Road, Suite C  
West Jordan, Utah 84088

STATE OF UTAH  
COUNTY OF Salt Lake  
I hereby certify that the document to  
which this certificate is attached is a  
full, true and correct copy of the  
original filed in the Utah State Courts.  
WITNESS my hand and seal  
this 18 day of July,  
20 14.  
DISTRICT/JUVENILE COURT



STATE OF UTAH                    )  
  )       SS.  
COUNTY OF SALT LAKE        )

Amy McLean CLERK

I, Amy McLean, an individual over the age of eighteen and not a party to this action, and, having been first duly sworn and under oath depose and say that: I, Amy McLean, do hereby swear under the penalty of perjury, that I received a **Summons and Complaint** in this case to be served on **FEDEX CORPORATE SERVICES, INC.**

and that on the **30th day of June, 2014 at 2:15 pm**, I **PERSONALLY** served by delivering a true copy of the **Summons and Complaint** with the date and hour of service endorsed thereon by me, to: **KELLY NIXON, at CT CORPORATION, 1108 E SOUTH UNION AVE., Midvale, UT 84047**, who is the named registered agent for said company and informed said person of the contents therein, in compliance with state statutes.

DATED this 1 day of July, 2014

Amy McLean  
Amy McLean

SUBSCRIBED AND SWORN TO BEFORE ME THIS 1<sup>st</sup> day of July, 2014.

SEAL  
Service fee: \$6  
  
LEA ALINE MENDEZ  
NOTARY PUBLIC-STATE OF UTAH  
COMMISSION# 668303  
COMM. EXP. 05-17-2017

Lea A. A. Mendez  
Notary Public

Jeremy D. Eveland, MBA, JD (10412)  
Jared B. Pearson, JD (12200)  
EVELAND & ASSOCIATES, PLLC.  
8833 South Redwood Road, Suite C  
West Jordan, Utah 84088  
Tel: (801) 676-5006  
Fax: (801) 676-5508

Kelly Nixon  
2:15pm  
6/30/14  
*Kelly Nixon*

*Attorneys for Plaintiff*

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IN THE THIRD JUDICIAL DISTRICT COURT, STATE OF UTAH  
SALT LAKE COUNTY, WEST JORDAN DEPARTMENT

---

LINGUISTICA INTERNATIONAL, INC., a  
Utah corporation,

Plaintiff,

vs.

FEDEX CORPORATE SERVICES, INC., a  
Delaware corporation; FEDEX  
CORPORATION; a Delaware corporation;  
FEDEX FREIGHT, INC., a Arkansas  
Corporation, and JOHN DOES I - X,

Defendants.

**SUMMONS**

Case No.: 140408790

Judge Barry Lawrence

---

THE STATE OF UTAH TO FEDEX CORPORATE SERVICES, INC.:

You are summoned and must file a response to the Complaint in this lawsuit, in writing, with the clerk of the court at the following address: 8080 South Redwood Road, Suite 1701, West Jordan, Utah 84088; and deliver or mail a copy of your response to the Attorney for Respondent, Jeremy D. Eveland, Eveland & Associates, PLLC, 8833 South Redwood Road, Suite C, West Jordan, Utah 84088, within 20 days if you are served in the State of Utah, or within 30 days if you are served outside the State of Utah, after service of this Summons upon you.



# EXHIBIT B

Heidi G. Goebel, 10343  
CHRISTENSEN & JENSEN, P.C.  
15 West South Temple, Suite 800  
Salt Lake City, Utah 84101  
Telephone: (801) 323-5000  
[Heidi.Goebel@chrisjen.com](mailto:Heidi.Goebel@chrisjen.com)  
*Attorneys for Defendants*

IN THE THIRD JUDICIAL DISTRICT COURT, STATE OF UTAH  
SALT LAKE COUNTY, WEST JORDAN DEPARTMENT

LINGUISTICA INTERNATIONAL, INC., a Utah corporation,  Plaintiff,  vs.  FEDEX CORPORATE SERVICES, INC., a Delaware corporation; FEDEX CORPORATION, a Delaware corporation; FEDEX FREIGHT, INC., an Arkansas corporation, and JOHN DOES I-X,  Defendants.	<b>NOTICE OF FILING NOTICE OF REMOVAL</b>  Case No.: 140408790  Judge Barry G. Lawrence
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PLEASE TAKE NOTICE THAT on July 22, 2014, Defendant FedEx Corporate Services, Inc. ("FedEx Services") filed a Notice of Removal to the U.S. District Court for the District of Utah. A true and correct copy of the Notice of Removal is attached as Exhibit A.

PLEASE TAKE FURTHER NOTICE THAT, upon the filing of the Notice of Removal with the Clerk of the U.S. District Court for the District of Utah, and filing copies with the Clerk of this Court, FedEx Services has effected removal and the Court shall

proceed no further in this action unless and until the case is remanded pursuant to 28 U.S.C. §1446 (d).

DATED this 22<sup>nd</sup> day of July, 2014.

Respectfully submitted,

CHRISTENSEN & JENSEN, P.C.

/s/ Heidi G. Goebel  
Heidi G. Goebel  
*Attorney for FedEx Corporate Services, Inc.*

CERTIFICATE OF SERVICE

The undersigned certifies that on July 22, 2014, they caused a true and correct copy of this document to be served via electronic case filing system (ECFS), and/or, if required, by the method(s) indicated below, in accordance with CJA Rule 4-503 and Utah Rules of Civil Procedure, to the following:

Jeremy D. Eveland  
Jared B. Pearson  
Eveland & Associates, PLLC  
8833 South Redwood Road, Suite C  
West Jordan, UT 84088

/s/ Heidi G. Goebel